

**UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA
Case No. 20-cv-954**

FARHAD AZIMA,

Plaintiffs

v.

NICHOLAS DEL ROSSO and VITAL
MANAGEMENT SERVICES, INC.,

Defendants.

**PLAINTIFF FARHAD AZIMA'S
OPPOSITION TO DEFENDANTS'
MOTION FOR EXTENSION OF TIME
TO FILE RESPONSIVE PLEADING**

This matter has been pending for two years. In that time, Defendants Nicholas del Rosso and Vital Management Services (“Defendants”) have filed not one but two successive motions to dismiss. Defendants have on multiple occasions opposed motions by Plaintiff Farhad Azima (“Plaintiff” or “Azima”) that would allow him to issue subpoenas and start discovery to ensure that relevant documents are preserved. Now that the matter is on the precipice of discovery, Defendants have once again sought to delay by seeking more time to file their answer. The court should not allow further delay and should order Defendants to answer in accordance with the October 12, 2022, deadline set forth by the Rules (almost exactly two years after the filing of the Complaint). Regardless, the court should issue the Rule 26(f) Report deadline and Rule 16 Conference notice, so that discovery can begin. In support of this opposition, Plaintiff submits the following:

1. Plaintiff filed the Complaint here against Defendants on October 15, 2020. (Document No. 1.) Plaintiff served Defendants on October 16, 2020. (Document No. 5.)

2. Plaintiff consented to a 45-day extension of Defendants' time to answer or otherwise respond to the Complaint. (Document No. 18.)

3. Defendants moved to dismiss the Complaint on December 21, 2020. (Document No. 34.) Judge Webster issued his Order and Recommendation on August 9, 2021. (Documents No. 54.) On December 10, 2021, the Court issued its Memorandum and Opinion granting in part and denying in part the motion to dismiss. (Document No. 65.)

4. Rather than answering the Complaint, Defendants filed a second motion to dismiss on December 23, 2021. (Document No. 67) Defendants also filed a motion to reconsider the partial denial of the motion to dismiss. (Document No. 74). The motion to reconsider was denied by Judge Osteen on March 21, 2022. In the Memorandum and Opinion, Judge Osteen "remind[ed] the parties that Federal Rule of Civil Procedure 11(b)(1) requires that every court filing must not be intended to 'cause unnecessary delay.'"

5. Given concerns about document destruction and preservation, Plaintiff has sought to start discovery four times in connection with this matter. (Documents Nos. 7, 36, 52, 66.) Each time, Defendants have opposed Plaintiff's request. (Documents Nos. 21, 43, 53, 70.)

6. On September 28, 2022, the Court entered its Memorandum Opinion and order denying Defendants' second motion to dismiss. (Document No. 80.) Defendants' deadline to answer the Complaint is October 12, 2022. A week after the Court issued its order, Defendants contacted Plaintiff seeking a 30-day extension. Given the two-year delay since the Complaint was filed, Plaintiff declined to consent to this extension.

Based on the foregoing, Plaintiff Farhad Azima respectfully requests that the Court deny the Motion to Extend Time (Document No. 82).

This, the 7th day of October, 2022.

WOMBLE BOND DICKINSON (US) LLP

/s/ Ripley Rand

Ripley Rand
North Carolina Bar No. 22275
Christopher W. Jones
North Carolina Bar No. 27625
555 Fayetteville Street, Suite 1100
Raleigh, North Carolina 27601
Phone: 919-755-2100
Fax: 919-755-2150
Email: ripley.rand@wbd-us.com
chris.jones@wbd-us.com

MILLER & CHEVALIER CHARTERED

/s/ Kirby D. Behre

Kirby D. Behre (*pro hac vice*)
Brian A. Hill (*pro hac vice*)
Tim O'Toole (*pro hac vice*)
Ian Herbert (*pro hac vice*)
Calvin Lee (*pro hac vice*)
900 16th Street, NW
Washington, D.C. 20006
Telephone: (202) 626-5800
Fax: (202) 626-5801
Email: kbehre@milchev.com

Counsel for Plaintiff

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CERTIFICATE OF SERVICE

I hereby certify that I electronically filed the foregoing with the Clerk of Court using the CM/ECF system, which will send electronic notification of this Notice to the following attorneys:

Kieran J. Shanahan, Esq.
Brandon S. Neuman, Esq.
Jeffrey M. Kelly, Esq.
Nathaniel J. Pencook, Esq.
GlenLake One
4140 Parklake Avenue - Suite 200
Raleigh, NC 27612
kieran.shanahan@nelsonmullins.com
brandon.neuman@nelsonmullins.com
jeff.kelly@nelsonmullins.com
nate.pencook@nelsonmullins.com
Telephone: 919.329.3800
Facsimile: 919.329.3799

This, the 7th day of October, 2022.

WOMBLE BOND DICKINSON (US) LLP

/s/ Ripley Rand
Ripley Rand
North Carolina State Bar No. 22275
555 Fayetteville Street, Suite 1100
Raleigh, NC 27601

Telephone: (919) 755-8125
Facsimile: (919) 755-6752
Email: Ripley.Rand@wbd-us.com

Counsel for Plaintiff